

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**UNITED STATES OF AMERICA, ex rel.
JOHN M. GREABE,**

Plaintiffs

v.

**BLUE CROSS BLUE SHIELD ASSOCIATION
and ANTHEM BLUE CROSS BLUE SHIELD
OF NEW HAMPSHIRE**

Defendants

Civil Action No. 04-11355 MEL

**MOTION TO POSTPONE DEADLINES FOR DISCLOSURE
OF COMPUTATION OF DAMAGES REQUIRED BY FEDERAL
RULE OF CIVIL PROCEDURE 26(a)(1)(C) AND OF THE
SETTLEMENT PROPOSAL REQUIRED UNDER LOCAL RULE 16.1(c)**

NOW COMES Relator, John M. Greabe, by and through his attorneys, Wiggin & Nourie, P.A., and respectfully moves to postpone the deadlines for disclosure of the computation of damages required by Federal Rule of Civil Procedure 26(a)(1)(C) and of the settlement proposal required under Local Rule 16.1(c). In support thereof, the Relator states as follows:

1. Pursuant to the Local Rules, Relator is obligated to present defendants with written settlement proposals no later than ten days before the date for the scheduling conference, unless otherwise ordered by the Court. See LR 16.1(c), D. Mass. The Federal Rules of Civil Procedure also require that the initial disclosures mandated by Fed. R. Civ. P. 26(a)(1) include a “computation of any category of damages claimed.”

2. However, due to the nature of this case, it is inappropriate at this early juncture to expect a demand or a computation of any category of damages.

3. The False Claims Act (the “FCA”) does not specify how to quantify damages that will fairly reimburse the Government for its losses and expenses. The Government has suffered harm compensable by the FCA, but an expert opinion will be necessary to properly quantify that damage.

4. Given the difficulties inherent in calculating damages in an FCA case such as this, the Relator respectfully suggests that it would be more prudent to allow the Relator to provide a computation of damages and the required supporting documentation along with the disclosure of his experts.

5. The Relator respectfully refers the Court to his Memorandum of Law in support of this Motion for a more detailed articulation of his position. Relator has sought consent in the relief requested in this Motion, but defendants object.

WHEREFORE, the Relator, John M. Greabe, respectfully requests that this Honorable Court:

- A. Grant this Motion to Postpone the Deadlines for Disclosure of the Computation of Damages Required by Federal Rule of Civil Procedure 26(a)(1)(C) and of the Settlement Proposal Required under Local Rule 16.1(c).;
- B. Permit the Relator’s to disclose his computation of damages and file his written settlement proposal no earlier than the deadline established for expert disclosures in this case;
- C. Grant any other relief it deems just and proper.

Respectfully submitted,

RELATOR, JOHN M. GREABE

by his attorneys,

WIGGIN & NOURIE, P.A.

Date: July 25, 2007

By: /s/ Richard B. McNamara
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Certificate of Service

I hereby certify that on July 25, 2007, a copy of the foregoing Motion to Postpone Deadlines for Disclosure of Computation of Damages Required by Federal Rule of Civil Procedure 26(a)(1)(C) and of the Settlement Proposal Required Under Local Rule 16.1(c) has been forwarded to all counsel of record pursuant to the Court's rules and procedures concerning electronic filing. Any persons not receiving notification through ECF as noted on the Notification of Electronic Filing will be conventionally served via first class mail, postage prepaid:

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